

REMARKS

Amendment to the specification, abstract, and claims has been made in response to the Examiner's objections and further made in conformance with the Examiner's suggestions.

In addition, claim 11 has been amended to clarify the configuration of the electrode and to overcome the Examiner's rejection thereof under 35 USC 112. Specifically, the electrode is defined as being planar and support for this amendment may be found in the drawings as originally filed.

The Examiner has rejected claims 1-24 under 35 USC 112, on a first paragraph as failing to comply with a written description requirement. In this rejection, the Examiner has stated that claims contain subject matter which is not described in the specification in such a way as to reasonably convey one skilled in the relevant art that the inventors at the time the application was filed had possession of the claimed invention.

More specifically, the Examiner states that there appears no description of disclosure for one or more embodiments of the Applicants invention using only a single 'sensed electrode' as recited in claims 1, 5, 15, and 16 as amended.

The Applicants respectfully traverse this rejection and submit that an originally filed allocation that reasonably conveys to those skilled in the relevant art

that the applicant, as of the filing date of the original application, had possession of the claimed invention, satisfies the written description requirement of Section 112, first paragraph. In re Alton, 37 USPQ 2d, 1578 (Fed. Cir. 1996); In re Kaslow, 217 USPQ 1089 (Fed. Cir. 1983).

As claimed and set forth in the specification, the capacity sensor system in accordance with the present invention includes an electronic circuit for providing a control output signal in response to a rate of change in capacitance of the sense electrode due to motion of the proximate object.

It is clear from a reading of the specification that while a specific example of a single electrode was not provide, one skilled in the art could certainly interpret same particularly when consideration is given to the specification.

As outlined on page 3, there are currently two basic types of capacitance proximity sensors known in the art. One is a parallel plate type and another is of fringe feel type, see page 3, beginning at line 18 through line 12 of page 4.

The present invention is applicable to either type of system and utilizes a rate of change capacitance to provide a control output signal.

Specific reference to a single sensor may be found on page 6, beginning at line 5, wherein it is stated "in the present invention an intrinsically motion sensitive

capacitive sensing means is thus provided for detecting the movement of an object, such as, for example, a persons' hand, in a region which is within a prescribe distance from the sensor." Applicants submit that this reference incorporates one or more sensors since it is used in the singular manner.

Further, references seen in the paragraph beginning at line 18, on page 6 where it is stated:

"This reliability inherently provides immunity to false activation because the sensor continuously adapts to electrical characteristics of the surroundings and gradual changes in those surroundings of an overall magnitude greater than that due to the introduction of a hand into the sensing region. The sensor thereby has no zero drift."

The Examiner is attempting to limit the Applicants to a specific example utilizing two electrodes.

The Applicants submit that claims must be interpreted in light of the specification while giving the broadest reasonable interpretation of the claims. In re Marosi, 218 USPQ 289, 292 (Fed. Cir. 1983); In re Wiggins, 179 USPQ 421, 423 (CCPA 1973).

In view of the fact that a significant difference patentable feature of the present invention provides for a

control output signal in response to our rate of changing capacitants which has otherwise not been known, the Applicants submits that enablement requirement of 35 USC 112, first paragraph has been met.

A test for enablement is whether one of ordinary skill in the art can practice the invention with only routine, or reasonable, as opposed to undue, experimentation. Ex Parte Jackson, 217 USPQ 804, 807 (PTO Bd. App. 1982).

Further, the Applicants submit that the specification is presumed to be enabling absent the reason to doubt the truth of the statements therein. In re Armbruster, 185 USPQ 152, 153 (CCPA 1975); In re Marzocchi, 169 USPQ 367, 369 (CCPA 1971); In re Goold, 231 USPQ 943, 945 (PTO Bd. App. 1986); Gould vs. Moosinghoff, 229 USPQ 1, 13-14 (D.D.C. 1985).

In the case at hand, the Applicants have explained the invention through the use of a (the sensor) and thereafter provided specific examples utilizing two sensors. And accordingly, the Applicants submit that the specification therefor is enabling, particularly when a crucial element of the claimed invention is the circuitry for providing an output signal in response to our rate of change in capacitance.

Further, the Applicants submit that the scope of enablement is not limited to a preferred embodiment as set forth in the specification. In re Geerdes, 180 USPQ 789, 793 (CCPA 1974); In re Fuetterer, 138 USPQ 217, 223 (CCPA 1963); In re Johnson, 194 USPQ 187, 195 (CCPA 1997).

In In re Anderson, 176 USPQ 331, 333 (CCPA 1973), the court stated that, "...we do not regard Section 112, first paragraph, as requiring a specific example of everything within the scope of a broad claim. Sighting In re Gay, 135 USPQ 311 (1962)." The court continued:

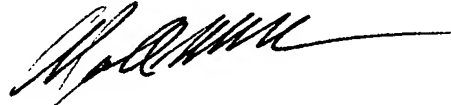
"There is no question raised as to the fact that there are specific examples of what appears to be the preferred embodiment and best mode contemplated by the Applicant carried out his claimed invention; we are hear dealing only with a possible alternative embodiment within the scope of the claims. What the Patent Office is here apparently attempting to do is limit all claims to the specification examples, notwithstanding the clear disclosure of a broader invention. This it may not do..."

This reads on the case at hand, the Examiner's attempting to limit the scope of the claims to a specific example while ignoring broader language in the specification which supports the claims. Accordingly, the Applicants respectfully request the Examiner to withdraw the rejection of claims 1-24 under 35 USC 112, first paragraph.

In view of the arguments hereinabove set forth and amendment to the claims and specification, it is submitted

that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in his field who is aware of the references of record. Reconsideration and allowance are respectively requested.

Respectfully submitted,



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